

RESOLUTION NO. 2017 - 27

A RESOLUTION TO AUTHORIZE THE CITY TO ENTER INTO AN ENCROACHMENT AGREEMENT REGARDING A 15' WIDE PLATTED PUBLIC UTILITY EASEMENT BETWEEN LOTS 4 AND 5, BLOCK 1, SOUTH HEIGHTS REPLAT; AND FOR OTHER PURPOSES.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEARCY, TO –WIT:

WHEREAS, STORE Master Funding X, LLC (“STORE”) is the owner of Lots 4 and 5, Block 1, of the South Heights Replat, which property is subject to an approximately 15 foot wide public utility easement dedicated on the plat recorded at Plat Cabinet A, Slide 36 in White County, Arkansas;

WHEREAS, the subject property is the location of the Ridout Lumber Company and Arkansas Wholesale Lumber Company corporate headquarters and a lumberyard. A one-story metal storage building encroaches onto the west side of the subject utility easement by approximately 4 feet;

WHEREAS, rather than remove the encroachment from the utility easement and cause unnecessary economic waste, STORE has proposed that the City and the Searcy Board of Public Utilities enter into the Encroachment Agreement attached hereto as Exhibit “A” for the purpose of confirming the rights and obligations of the parties with respect to the encroachment, and its eventual removal from the easement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEARCY, ARKANSAS:

Section 1. The Encroachment Agreement is hereby approved and ratified in substantially the form attached hereto as Exhibit “A”. The Mayor and City Clerk are hereby authorized and directed to execute and deliver the Encroachment Agreement on behalf of the City. The Mayor is hereby further authorized to negotiate and approve any modifications to the form attached hereto as Exhibit “A” as may be advisable or in the best interest of the City. The Mayor’s and City’s Clerk’s execution of the Encroachment Agreement shall be evidence of the City’s conclusive approval of the final form and content thereof.

Section 2. The Mayor is authorized to take all actions determined to be necessary, in the sole and exclusive determination of the Mayor, in the performance of all obligations, duties and responsibilities of the City associated with the Encroachment Agreement.

Section 3. In the event any portion of this resolution is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this resolution, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional, was not originally a part of the resolution.

Section 4. All laws, ordinances, resolutions, or parts of the same that are inconsistent with the provisions of this resolution are hereby repealed to the extent of such inconsistency.

ADOPTED: June 13, 2017

ATTEST:

/s/ Jerry Morris
City Clerk

APPROVED:

/s/ David Morris
Mayor